

(1995) 02 AHC CK 0115

In the Allahabad High Court

Case No : Civil Miscellaneous W.P. No. 16518 of 1989

Shiv Ram and Others

APPELLANT

Vs

State of U.P.through Collector,and Others

RESPONDENT

Date of Decision : 23-02-1995

Acts Referred:

Uttar Pradesh Imposition of Ceiling on Land Holdings Act, 1960 — Section 29

Citation : (1995) 02 AHC CK 0115

Hon'ble Judges : Binod Kumar Roy, J

Final Decision : Dismissed

Judgement

Binod Kumar Roy, J.

1. The Holdings Act, 1961. In fact, the petitioners pray to quash the order dated 1051989 passed by the Prescribed Authority, Rath, district Hamipur in Case No. 123 of 1976 (as contained in Annexure No. 6) and the appellate order dated 16889 passed by the Additional Commissioner (Judicial), Jhansi Division, Jhansi in Appeal No. 28 of 198889 (as contained in Annexure No. 9).

2. Mr. N.K. Saxena, the learned counsel appearing on behalf of the petitioners, contended that the authorities have committed an apparent error of law in rejecting the petitioner's prayer to hold that in view of the adjudication by the consolidation authorities they were holding land lesser in area than one which was taken into account by the ceiling authorities while determining the ceiling area of the petitioners under the provisions of the U.P. Imposition of Ceiling on Land consolidation authorities have held that the petitioners are holding only 111.33 acres of lands and this fact should have been taken into account by the ceiling authorities in view of the ration laid down by a Division Bench of this Court in Satyapal Singh v. State of U.P, 1979 AWC 217.

3. Mr. S.C. Mamgain, the learned Standing Counsel appearing on behalf of the respondents, on the other hand, contended that ceiling authorities have correctly taken into account the fact that the petitioners were holders of 122.32 acres of

land for determining the ceiling area on the appointed date i.e. June 8, 1973, and correctly declared 25.26 acres of land as surplus, which was also correctly affirmed by the dismissal of the appeals of the petitioners, Writ Petition of the petitioners as well as Special Leave Petition of the petitioners.

4. In Satyapal Singh's case (supra) relied upon by Sri Saxena, the Division Bench was answering the Following question, which was referred to it:

?Whether the reduction in area brought about by the consolidation proceedings held by a tenureholder after June 1973 can be taken into account while determining the ceiling area applicable to him on the said date ?

The Division Bench answered the question in the affirmative after observing as follows :

?5..... The proceedings under the Consolidation of Holdings Act the based upon the system of valuation of land prescribed by that Act. The proceedings under the Ceiling Act are founded on area. The system of valuation provided by the Consolidation of Holdings Act is not recognised by the Ceiling Act for determining the ceiling area as prescribed by the Ceiling Act. The method of calculation given in the Ceiling Act alone has to be followed. The burden of the Ceiling Act is that after June 8, 1973 no tenure holder should continue to possess more than the ceiling area. Under Section 29 of the Ceiling Act, there is a specific provision for adjustment of ceiling area in case the tenureholder acquires some more land. It is implicit in the provision that if because of operation of law the tenureholder's holding gets reduced, that also should be taken into account. The reduction must be one which is valid in law.?

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?8. Learned counsel invited our attention to a Full Bench of this Court in Ram Charan v. State of U.P. 1978 AWC 677. At the end of judgment an illustration with reference to Section 29 of the Ceiling Act was dealt with. But that has no bearing upon the position as obtaining in the present cast The Full Bench was concerned with the reverse c.j.e, namely, where consolidation proceedings commenced after the completing of the proceedings under the Ceiling Act. Here, we are concerned with problem of Ceiling Act proceedings commencing while consolidation proceedings are going on and before the completion of proceedings under the Ceiling Act, final orders had been passed under the Consolidation of Holdings Act. This position is not dealt with in the aforesaid decision.?

5. In the instant case the surplus area of the petitioners was finally determined by the appellate authority on 51177. That order was also affirmed by the dismissal of the writ petitions of the petitioners as also by dismissal of the Special Leave Petition of the Petitioners. Admittedly, the consolidation proceedings concluded in 1981, i.e. after the determination of the surplus land of the petitioners. Thus the decision in Satyapal's case (supra) if of no help to the petitioners. It is common knowledge that in some consolidation proceedings

some area of land belonging to a tenant is taken out from his original holding and allotted to other tenureholders in their Chaks and vice versa. Thus the exact area of the lands would be at variance. A tenure holder may possess less lands after allotment of chaks by the taking out of certain lands from his original holding even for the purposes of carving out Chak road etc. Thus, this will be of no help to the petitioner in view of the admitted fact that petitioners surplus area with reference to the appointed day was finalised by the appellate authority in November 1977.

6. This writ petition is thus of no merit and is consequently dismissed.

7. In the peculiar facts and circumstances, however, I make no order as to costs.

Writ Petition dismissed